

### **REMARKS**

Claims 1-3, 7, 8 and 51 have been amended. Claims 1-29, 34-36 and 51 are presently pending in the application.

The Office Action rejected claims 1, 2, 4, 5, 14-17, 21, 22 and 34-36 under 35 U.S.C. 102(b) as allegedly being anticipated by Arm et al. (WO 93/20859). The Office Action also rejected claims 1, 4, 7-18, 21 and 22 under 35 U.S.C. 103(a) as allegedly being unpatentable in view of Hossainy et al. (U.S. Patent No. 6,451,373, published 9/17/02), rejected claims 1-6 and 21-29 under 35 U.S.C. 103(a) as allegedly being unpatentable over Ledergerber et al. (U.S. Patent No. 4,955,907) in view of Calhoun et al. (U.S. Publication No. 2002/0001609), rejected claims 1, 4, 7, 13-23, 25, 29 and 34-36 under 35 U.S.C. 103(a) as allegedly being unpatentable over Lahtinen et al. (U.S. Publication No. 2003/0059463, published 3/27/03), and further rejected claim 51 under 35 U.S.C. 102(b) as allegedly being anticipated by Arm et al.. Applicants respectfully traverse these rejections, for the following reasons.

Regarding the rejections based upon Arm et al. and Hossainy et al., pages 3 and 4 of the Office Action stated that “the claim only limits which types of polymers can be used in the base material but not the components of the film,” and suggested that for Applicants to limit the components of the film that the claims be amended to recite that the resorbable thin membrane is substantially non-porous and consists essentially of a lactide polymer or a copolymer of two or more cyclic esters. Responsive thereto, while maintaining that independent claims 1 and 53 patentably distinguish over Arm et al. and Hossainy et al. even before the entering of the current Amendment, Applicants have amended these claims 1 and 53 in accordance with the Examiner’s position. More particularly, in an effort to expedite the prosecution of the present application, Applicants have amended the current independent claims 1 and 53, not so much as to

have amended the current independent claims 1 and 53, not so much as to overcome the rejections, but rather to further define one or more aspects of the present invention, by modifying the language of the claims to recite that the resorbable thin membranes consist essentially of a lactide polymer or a copolymer of two or more cyclic esters.

Regarding the other rejections based upon 103(a), Applicants direct the Examiner's attention to the attached Declaration under 37 CFR 1.131, submitted by Stout, Uxa, Buyan & Mullins, LLP in lieu of the impracticability of obtaining inventor statements, which Declaration establishes that Applicants' invention of claims 1, 4, 7, 13-23, 25, 29 and 34-36 occurred prior to March 27, 2003 and that Applicants' invention of claims 1-6 and 21-29 occurred before January 3, 2002.


Since the claimed invention was invented prior to the critical dates of certain ones of the relied upon 102(e) and 103(a) references, Applicants respectfully request withdrawal of the rejections under 35 U.S.C 102 and 103 relating to those cited references. Accordingly, it is respectfully submitted that the current claims in the subject application patentably distinguish over, and are allowable over, the prior art of record.

In view of these and potentially other reasons, Applicants disagree with the Examiner's position that the instantly claimed method of attenuating adhesions between an implant and surrounding tissues is anticipated or would have been obvious.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. 102 and 103. Applicants submit that the application is now in condition for allowance, and an early indication of same is requested. The Examiner is invited to contact the undersigned with any questions.

The Commissioner is hereby authorized to charge any needed fees to deposit account 50-1600.

Respectfully submitted,



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